



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, सोमवार, 24 फरवरी, 2014 / 5 फाल्गुन, 1935

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-2, 29th January, 2014

No. Sharm (A) 7-1/2005-IV (Award).—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment, Government of Himachal Pradesh.

Sr. No.	Case No.	Title of the Case	Date of Award
1.	35/2009	S/Shri Neeraj Kumar V/s Sarvotam Remedies Ltd. Baddi.	2-12-2013
2.	46/2013	Sh. Sanjay Sharma V/s M/s Sanchar Laboratories Ltd. Baddi.	18-12-2013
3.	47/2013	Sh. Som Pal V/S -do-	18-12-2013
4.	48/2013	Sh. Santosh Sharma V/S -do-	18-12-2013
5.	49/2013	Ms Susma Devi V/s -do-	18-12-2013
6.	50/2013	Sh. Anil Kumar V/s -do-	18-12-2013
7.	51/2013	Sh. Jitender Kumar V/s -do-	18-12-2013
8.	52/2013	Sh. Suresh Kumar V/s -do-	18-12-2013
9.	53/2013	Sh. Jeet Ram V/s -do-	18-12-2013
10.	63/2010	Sh. Rajesh Chauhan V/s M/s Tigakasha Metallic Ltd.	2-1-2014
11.	64/2010	Sh. Pardeep Sharma V/s -do-	2-1-2014
12.	65/2010	Sh. Rajeev Sharma V/s -do-	2-1-2014
13.	103/2007	Sh. Mansa Ram V/s Ex Engg. HPSEB	14-1-2014
14.	97/2013	Employees Union V/s G.M. Clarkes Hotel, Shimla.	10-1-2014
15.	54/2013	Sh. Ram Singh V/s M/s Deepak Enterprises Parwanoo.	9-1-2014
16.	21/2010	Sh. Rishi Kumar V/s M/s Kilitch Drugs Nalagarh	13-1-2014

By order,
(R. D. DHIMAN),
Pr. Secretary (Labour & Employment).

IN THE COURT OF A.S. JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA.

Ref no. 35 of 2009.

Instituted on 27.4.2009.

Decided on 2.12.2013.

Neeraj Kumar S/o Shri Bihari Lal R/o VPO Bhangwar, Tehsil & District Kangra, HP.

.. Petitioner.

Vs.

The General Manager, M/s Sarvotam Remedies Ltd., Katha Baddi, Tehsil Nalagarh, District Solan, HP.

.. Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Bhagwan Chand, Advocate.
For respondent : Shri Jagdish Thakur, Advocate.

AWARD

The reference for adjudication, is as under:—

“Whether termination of the services of Sh. Neeraj Kumar S/o Shri Bihari Lal by the Management of M/S Sarvotam Remedies Ltd. Katha Baddi, Tehsil Nalagarh, District Solan, H.P. w.e.f. 20/5/2008 without following the provisions of Industrial Disputes Act, 1947, is legal and justified? If not, what relief of service benefits including re-instatement, back wages, seniority and compensation the aggrieved workman is entitled to ?”

2. Briefly, the case of the petitioner is that consequent upon appointment letter dated 30.11.2006, he joined his duties, as Technician, in the respondent management on 1.12.2006. Although, he had worked w.e.f. 1.12.2006 to 19.5.2008 but on 20.5.2008, his services were terminated vide show cause notice dated 19.5.2008, the reply to which, he had filed on 22.5.2008. In fact, the charges, as framed, against him, in the show cause notice dated 19.5.2008, were totally false and baseless. During his duties, he (petitioner) had not committed any misconduct. It is further alleged that the evidence of Naveen Kumar had been recorded by the respondent by putting him under fear/threat. As a matter of fact, he (Naveen Kumar) had also been threatened to be implicated in false and frivolous criminal case. Before terminating his services, the respondent had not conducted any enquiry and even no opportunity was given of being heard. Except, show cause notice dated 19.5.2008, he (petitioner) had not been issued any termination letter. Initially, after the issuance of show cause notice, he (petitioner) was not allowed to enter the premises of the respondent company and ultimately, he was informed, orally, that his services had stood terminated. Even, from the show cause notice dated 19.5.2008, it is borne out that the respondent had not issued any termination notice to him. In this way, the respondent had violated the provisions of section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred as Act). In lieu of his termination, no compensation was paid. Since, his dismissal is against the provisions of law, he requires to be reengaged, in service, with all consequential benefits.

3. The petition has been contested on having raised preliminary objection that the petitioner has not come before this Court with clean hands because he suppressed material facts. As a matter of fact, after issuing show cause notice dated 19.5.2008, a domestic enquiry had been ordered to be conducted against him (petitioner). On merits, it has been asserted that the petitioner had joined the services of the respondent on 1.12.2006 and that on 15.5.2008, when he (petitioner) was on duty, in the medication area, along-with one Mr. Naveen Kumar, during A shift from 700 hours to 1500 hours, a piece of Bop Tape was found, floating in medication tank no. 2, by Quality Control Chemist and on enquiry, it was found that the petitioner had intentionally put the Bop tape in the medication tank with a motive to cause loss. In these circumstances, a show cause notice, dated 19.5.2008, was issued to him because his such act came within the ambit of misconduct as per model standing orders i.e. Industrial Employment Standing Orders, H.P Rules 1973. On account of the aforesaid act of the petitioner, the respondent had suffered a huge loss and its reputation also got lowered down in the market. Consequent upon the high quality alert, which had to be raised, the medicines were put on hold. After the intervention of high level quality team, the medicines which were put on hold, were cleared. To the notice dated 19.5.2008, the petitioner had submitted his replies dated 22.5.2008 and 27.5.2008. On having considered his replies, aforesaid, the respondent, vide letter dated 30.5.2008, took a decision to hold a domestic enquiry against the petitioner and for that purpose Shri Ashok Kumar, Assistant Manager (production), was appointed as an enquiry officer and Shri Harpreet Singh (Executive HR), as management representative. The copy of the above said letter, dated 30.5.2008, was sent at the address of the petitioner through speed post. As per letter dated 30.5.2008, the petitioner had been requested to present himself in HR department at 1500 hours on 6.6.2008, for the purpose of domestic enquiry but he failed to do the needful. Thereafter, vide letter dated 10.6.2008, he was intimated that the next date, fixed for the enquiry, was 30.6.2008, and that the said letter had been sent to him through registered post. But again, he failed to appear before the enquiry officer and as such proceeded against exparte. Thereafter, vide order dated 10.7.2008, respondent management produced three witnesses and their

statements were got recorded by the enquiry officer who submitted his enquiry report on 19.6.2008. After the receipt of the enquiry report, the respondent issued a show cause notice to the petitioner as to why his services be not terminated and he was also requested to submit his explanation within three days. Along-with that show cause notice, the petitioner had also been sent the copy of the enquiry report. It is alleged that the petitioner had refused to accept the show cause notice which was accompanied with enquiry report. In these circumstances, the services of the petitioner were terminated vide letter dated 8.8.2008. It has been denied that the principles of natural justice and also the provisions the Act had not been complied with. On the contrary, it is quite clear that despite having been afforded ample opportunities, the petitioner had failed to participate in the enquiry and for this reason, the enquiry officer had no option but to proceed against him *ex parte*. It is further maintained that the show cause notice, dated 19.5.2006, itself shows that the services of the petitioner had been placed under suspension *w.e.f.* 20.5.2008 and that when he did not submit any explanation, his services were terminated. It has been specifically denied that the respondent had violated the provisions of sections 25-F, 25-G and 25-H of the Act. Other allegations denied.

4. Rejoinder not filed. On the pleadings of the parties, issue no.1, which had been framed on 17.5.2010, was re-casted as per order dated 23.11.2010. The issues, thus so framed, are as under:

1. Whether the services of workman Neeraj Kumar have been ruminated without following the provisions of Industrial disputes Act, 1947 in an illegal manner as alleged? ..*OPP.*
2. If issue no.1 is proved in affirmative, whether petitioner is entitled to service benefits as prayed? ..*OPP.*
3. Relief:

5. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under.

Issue no. 1	Yes.
Issue no. 2	Entitled to reinstatement with seniority and continuity but without back wages.
Relief.	Reference answered in favour of the petitioner, per operative part of award.

Reasons for findings

Issue no. 1

7. Being interlinked, both these issues are taken up together for discussion and decision.

8. When regard is given to the statement of claim, filed by the petitioner, it is revealed that consequent upon show cause notice dated 19.5.2008, his services had stood terminated on 20.5.2008. According to the petitioner, no enquiry had been conducted against him before terminating his services and further that he was not given any opportunity of being heard. He asserted his termination to be violative of the provisions of the Act and also against the provisions

of law. On the other hand, the respondent had taken a specific plea that when, on 15.5.2008, during shift 'A' (700 hours to 1500 hours), the petitioner was on duty in the medication area, along-with one Mr. Naveen Kumar, a piece of Bop Tape was found, floating in medication tank no.2, by the Quality Control Chemist and on enquiry, it was found that the petitioner had intentionally put the Bop tape in the medication tank with a motive to cause loss to the respondent. In order to explain his position, he had been issued notice dated 19.5.2008, which he replied on 22.5.2008 and also by another reply dated 27.5.2008, which, when considered, were not found to be satisfactory and thus, it was ordered, vide letter dated 30.5.2008, that a domestic enquiry be held against him for which Shri Ashok Kumar was appointed as enquiry officer and Harpreet Singh as management representative. The contention of the respondent is further to this effect that when the petitioner had failed to appear in the enquiry proceedings despite having been issued the copy of letter dated 30.5.2008 and other relevant documents, pertaining to the appointment of enquiry officer and management representative, he was proceeded against exparte and on the basis of exparte evidence, so led by the respondent management, the enquiry officer submitted his report on 29.7.2008, which had been sent to the petitioner along-with show cause notice asking him as to why his services were not terminated but that notice was refused to be accepted by him. Thus, his services were terminated vide letter dated 8.8.2008.

9. From the stand, which has been taken by the respondent, it is highlighted that before terminating the services of the petitioner, an enquiry had been got conducted against him in which, the petitioner had not participated despite having been issued notices by the enquiry officer. In his claim petition, the petitioner has specifically asserted that except show cause notice, dated 19.5.2008, he had not been issued any termination letter. This goes to show that as per the petitioner, he had not received the letter dated 30.5.2008, as per which, the respondent had ordered to hold domestic enquiry against him and for that purpose, appointed Shri Ashok Kumar as enquiry officer and Shri Harpreet Singh, management representative.

10. When the petitioner appeared in the witness box as PW-1, he filed his affidavit, wherein he stated that to the show cause notice dated 19.5.2008, he had filed reply dated 22.5.2008. He further stated that the respondent company had not conducted any enquiry against him before terminating his services. He was also not associated during the enquiry, as alleged by the respondent company. The alleged letters sent through registered/speed post had not been served upon him. Even, the copy of enquiry report, filed by the respondent company, along-with the reply, had not been served upon him. He had also not been issued termination letter. Only, he had been intimated orally that his services had stood terminated. In the cross-examination, he admitted that to the show cause notice dated 19.5.2008, copy of which is Ex. RA, he had filed reply on 22.5.2008, the copy of which is Ex. RB. To the said show cause notice Ex. RA, he had also filed another reply dated 27.5.2008, the copy of which is Ex. RC. He explained that the second reply had been submitted by him under the pressure of management. He denied to have received letters dated 30.5.2008, the copies of which are mark X to X-2, regarding holding of enquiry against him and also the appointment of management representative as well as enquiry officer. He admitted that his address is R/o Village Bangwar, District Kangra, HP. He denied that he was residing at Pinjore, as per the address given in mark X. He admitted that letter mark X to X-2 had been sent to him, vide mark X-3 but he denied to have received the same. He had also not received letter dated 10.6.2008, mark X-4, sent through registered letter mark X-5. He does not know that thereafter exparte enquiry had been conducted against him. He denied that enquiry report had been served upon him through Shri K. Linga Reddy who was residing at Pinjore and that he had refused to receive the same after going through its contents. He also denied to have received second show cause notice dated 4.8.2008, mark X-7 and dismissal order dated 8.8.2008, mark X-8. He had no knowledge that his services had been terminated on 8.8.2008. These days he is working in ITC Company at Baddi. He denied that before the Labour Officer, the management had told that he (PW-1), had not been co-operating in the enquiry which was ordered against him.

11. RW-1, Shri K.S. Palia, in his affidavit, Ex. RW-1/A, has stated that on 5.5.2008 during shift 'A' from 700 hours to 1500 hours when the petitioner was on duty in the medication area, along-with one Mr. Naveen Kumar, a piece of Bop Tape was found floating in medication tank no. 2 and on enquiry, it was found that the petitioner had intentionally put the Bop tape in the medication tank with a motive to cause loss to the respondent. Thereupon, he was issued show cause notice dated 19.5.2008, the copy of which is Ex. RA and the replies to which he filed are Ex. RB and Ex. RC. Since, the replies, filed by him, were found not to be satisfactory, it was decided to conduct domestic enquiry against him vide letter dated 30.5.2008, copy of which is Ex. R-2. Ex. R-3 and Ex. R-4, are the letters as per which Shri Harpreet Singh was appointed as management representative and Ashok Kumar as enquiry officer respectively. The aforesaid letters had been sent to the petitioner through speed post, the receipt of which is Ex. R-5. Vide letter dated 30.5.2008 (Ex. R-2), the petitioner had been asked to appear before the enquiry officer in HR department on 6.6.2008, at 1500 hours for the purpose of domestic enquiry but he failed to appear and thereafter letter, dated 10.6.2008, was issued as per which the next date of enquiry was fixed for 30.6.2008. Both these letters had been issued on the Pinjore address of the petitioner as well as on the address of his native Village through registered post. However, the petitioner did not appear on 30.6.2008, and was proceeded against exparte. The date for recording the evidence of the management was fixed for 10.7.2008 on which date, Jani Sheikh, V.Srimanaryan and Naveen Kumar were examined. Thereafter, the enquiry officer submitted his report. Ex. R-8, is the copy of enquiry proceedings and Ex. R-9, that of enquiry report. After the receipt of the enquiry report, the respondent issued a show cause notice dated 4.8.2008 and sent the same to the petitioner, on his Pinjore address, by hand, through Shri K. Lingareddy, who was working in the production department. The petitioner, on having read the same, refused to receive it. Ex. R-11 is the copy of second show cause notice which had been sent, by hand, vide Ex. R-12. Thereafter, the respondent terminated/dismissed the services of the petitioner vide letter dated 8.8.2008, the copy of which is Ex. R-13. In the cross-examination, he stated that the appointment of the enquiry officer had been made by Mahesh Bhatt, Plant Head. AD slip had not been sent along-with letter for holding enquiry against the petitioner. The registered letters which had been sent, were received un-served. The letter containing enquiry report which had been sent by hand, was not having cover note. It was also not disclosing as to which document had been sent through it. He admitted that at the time of enquiry, petitioner was their employee. He denied that after 19.5.2008, the petitioner was not allowed to enter the company.

12. RW-2, Ashok Kumar, in his affidavit, Ex. RW-2/A, has stated that he had been appointed as enquiry officer to conduct domestic enquiry against the petitioner. He had issued a letter to the petitioner to be present in the HR Department at 1500 hours on 6.6.2008 for the purpose of domestic enquiry. The respondent had supplied to him the copy of show cause notice/chargesheet dated 9.5.2008 (should have been 19.5.2008), along-with the reply, submitted by the petitioner, to the show cause notice dated 9.5.2008 (should have been 19.5.2008). Despite intimation which had been sent to the petitioner through registered post, he had not appeared on 6.6.2008. In view of the principles of natural justice, one more opportunity was given to the petitioner to appear in the enquiry on 30.6.2008, vide letter dated 10.6.2008, which was sent to him through registered post but he again failed to appear. Thus, he was left with no other alternative but to proceed him against exparte vide order dated 30.6.2008 and fixed the enquiry for recording the evidence of the management for 10.7.2008. On that date, three witnesses namely Jani Sheikh, V. Sriramnaryan and Naveen Kumar were examined. Thereafter, he submitted his enquiry report as per which the charges against the petitioner had been found to be proved and he submitted the enquiry report along-with enquiry proceedings. In the cross-examination, he expressed his lack of knowledge that the letters which had been sent to petitioner were not received by him. He denied not to have conducted a fair enquiry.

13. RW-3, Shri Prithi Singh Verma, Labour Inspector, Baddi has stated that during conciliation proceedings, reply had been filed from the side of the management, copy of which is

Ex. RW-3/A. In the cross-examination, he expressed his lack of knowledge to state that regarding that reply, the conciliation officer had enquired from Neeraj Kumar or not.

14. It is true that Shri Ashok Kumar (RW-2) has stated in his affidavit that he had been appointed as enquiry officer in order to conduct domestic enquiry against the petitioner and that he had directed the petitioner to remain present in the HR department at 1500 hours on 6.6.2008 but when regard is given to his evidence, it is not proved that the letters, which had been sent to the petitioner, were received by him. In his cross-examination, it has been stated by him that he does not know as to whether letters which had been sent to the petitioner, had not been received by him. Here, I would like to point out that in his evidence, the petitioner (PW-1), has specifically stated not to have received the letters from the enquiry officer. The plea of the respondent is also to this effect that the copies of enquiry report and enquiry proceedings, had been sent to the petitioner, by hand, through K. Lingareddy but he had refused to receive the same. I may mention that in this case, the said K. Lingareddy has not been examined. Since, from the very beginning the petitioner was disputing to have received the letters/notices sent to him by the enquiry officer, it was upon the respondent to have proved their service upon the petitioner by examining the concerned official from the postal department who had delivered those letters to the petitioner. Moreover, in the cross-examination of K.S. Palia (RW-1), it has come that along-with the letters which had been sent to the petitioner, no ADs were attached. He further made it clear that along-with the letter, through which enquiry report had been sent, there was no AD. His evidence further goes to show that the registered letters which had been sent were received un-served. This goes to show that as per this witness, the letters which had been sent to the petitioner had not been served. When, such is the position, on record, it has not been proved that the petitioner had been intimated regarding the date (6.6.2008), which the enquiry officer had fixed for the domestic enquiry. Similarly, it has further not been proved that the letter, dated 10.6.2008, had been received by the petitioner. For the failure of the respondent to have proved, on record, that the petitioner had been intimated regarding the date of enquiry and further that second show cause notice, accompanied by copy of the enquiry report had been refused to be accepted by the petitioner, the termination of the petitioner as per letter dated 8.8.2008, copy of which is Ex. R-13, can be said to have been passed, on having violated the principles of natural justice as well as without affording opportunity, of being heard, to the petitioner. Here, I may like to point out that the second show cause notice, copy of which is Ex. R-11, had been allegedly sent to the petitioner, by hand, through K. Lingareddy but said K. Lingareddy has not been examined before this Court. As per the respondent, the petitioner had refused to accept the service of the notice after having read its contents. It was only K. Lingareddy, who could have stated in this regard, on oath, before this Court. I may further like to point out that as per the contention of the respondent, as per show cause notice dated 19.5.2008, copy of which is Ex. RA, the petitioner had been put under suspension with immediate effect from 20.5.2008. If he had been put under suspension, the authority concerned was required to fix the place where he was to remain during the period of suspension. If the same had been done, the enquiry officer could have got the service of letters/notices containing the dates of the enquiry effected upon the petitioner either by hand or through post on the address of the place where the petitioner was to remain present during the period of suspension. It is further to be noted that there is no such material, on record, which could go to show that during the period, the petitioner had remained under suspension, he was paid any suspension allowance. Thus, taking into consideration the aforesaid facts and circumstances and also the observations, as recorded above, I without hesitation hold that the petitioner has been able to prove that his services had been terminated without following the provisions of the Act as well as principles of natural justice.

15. Now, it is to be seen that what service benefits, the petitioner is entitled to. In the evidence of the petitioner (PW-1), it has come that he has been working in an ITC Company at Baddi these days. His evidence further makes it clear that since the time his services were terminated he started working in the said company. In number of judgments of Hon'ble Apex

Court, it has been held that in the event of reinstatement of a worker, the grant of back wages is not automatic. *The Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals Vs. Prabhakant Shukla* has ruled that “full back wages cannot be granted mechanically, upon a order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry”.

16. Consequently, for what has been stated and observed above, the petitioner is held entitled to be reinstated in service with continuity and seniority but without back wages. Thus, both these issues are decided in favour of the petitioner and against the respondent.

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is allowed and the petitioner is ordered to be reinstated in service forth-with with seniority and continuity but without back wages. Consequently, the reference stands answered in favour of petitioner and against the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today this day of 2nd December, 2013.

(A.S. JASWAL) *presiding Judge,*
Industrial Tribunal-cum-
Labour Court, Shimla.

Ref. 46 of 2013

Sh. Sanjay Sharma V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:-

Present:—None for the Parties.

Notice were issued to the petitioner (Sanjay Sharma) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing, as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the

appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 47 of 2013

Sh. Som Pal V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:—

Present:—None for the Parties.

Notice were issued to the petitioner (Som Pal) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing , as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 48 of 2013

Sh. Santosh Sharma V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:—

Present:—None for the Parties.

Notice were issued to the petitioner (Santosh Sharma) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the

reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing, as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 49 of 2013

Ms. Susma Sharma V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:—

Present:—None for the Parties.

Notice were issued to the petitioner (Susma Sharma) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing, as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 50 of 2013

Sh. Anil Kumar V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:—

Present:—None for the Parties.

Notice were issued to the petitioner (Anil Kumar) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing, as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 51 of 2013

Sh. Jitender Kumar V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:—

Present:—None for the Parties.

Notice were issued to the petitioner (Jitender Kumar) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the

reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing, as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 52 of 2013

Sh. Suresh Kumar V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:—

Present:—None for the Parties.

Notice were issued to the petitioner (Suresh Kumar) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing, as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 53 of 2013

Sh. Jeet Ram V/s M/s Sancheez Laboratories P. Ltd. Baddi

18.12.2013:—

Present:—None for the Parties.

Notice were issued to the petitioner (Jeet Ram) and employer/Managing Director, M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP As per the reports, which have been made on the registered letters, the company (M/s Sancheez Laboratories (Pvt.) Ltd. Village Kunjhal Teh. Baddi, District Solan, HP), Stands closed. On the registered letter which had been sent to the petitioner, it has been reported that he has left the place of his address.

I have considered the aforesaid reports, which have been made on the registered letters, accompanied with Ads, through which notices had been sent to the parties. Since, the Factory in which the petitioner was employed/working stands closed and he, also, as reported, has left the place where he was residing, as per the address given in the reference, I am of the view that in these circumstances, it will be very difficult for this Court to get effected service upon the parties. Further, I am of the view that no fruitful purpose is likely to be served by sending the notices, on the addresses, as have been given in the reference.

Faced with such a situation, it would not be possible for this Court to answer the reference which has been made by the appropriate government. Accordingly, the same stands disposed of as un-answered for the reasons, as mentioned above. Let a copy of this order/award be sent to the appropriate government for publication in the office gazette, File, after completion, be consigned to records.

Announced:

18.12.2013

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref. 63/2010

Sh. Rajesh Chauhan V/s M/s Tegakasha Metallic Ltd. Shoghi

2.1.2014:—

Present:—Petitioner with Ms. Bindiya Negi, Advocate Vice Csl Kanwer Virender Singh, Advocate for Petitioner.

Shri Rajesh Kosh, Advocate for the respondent.

It has been stated before this Court by Shri Rajesh Kosh, Advocate for the respondent that already a settlement has taken place with the petitioner, out of Court. He further stated that the amount which has been settled between the parties shall be paid to the petitioner within ten day.

The petitioner has also stated before this Court that already he has entered into a settlement with the respondent and that the amount, which is proposed to be paid him, as per settlement, is acceptable to him. He further stated that in terms of the settlement, which has already been effected between the parties, the reference be decided.

On having heard the versions, as made before this Court by Shri Rajesh Kosh, Advocate and the petitioner, I order that their statements be recorded which are accordingly recorded.

Considering the statement of the parties, I am satisfied that a lawful settlement, out of Court, has taken place between the parties.

Consequently, the reference, as made to this Court, which reads as under :

“Whether the termination of services of Shri Rajesh Chauhan S/o Shri Hira Lal workman by the Managing Director, M/s Tegaksha Metallics Pvt. Ltd, Industrial Area Shoghi, District Shimla, HP w.e.f. 25.11.2007, without complying the Industrial Disputes Act, 1947 is proper and justified? If not, to what relief of service benefits, beck wages, seniority and amount of compensation the above aggrieved workman is entitled to ?”

Stands answered in terms of the statement of Shri Rajesh Kosh, Advocate which has also been admitted to be correct and acceptable by the petitioner. Let a copy of this award/order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:

2.1.2014

*Presiding Judge
Labour Court, Shimla.*

Ref. 63/2010

Sh. Rajesh Chauhan V/s M/s Tegakasha Metallic Ltd Shoghi

2.1.2014:—

Present:—Petitioner with Ms. Bindiya Negi, Advocate Vice Csl Kanwer Virender Singh, Advocate for Petitioner.

Shri Rajesh Kosh, Advocate for the respondent.

It has been stated before this Court by Shri Rajesh Kosh, Advocate for the respondent that already a settlement has taken place with the petitioner, out of Court. He further stated that the amount which has been settled between the parties shall be paid to the petitioner within ten day.

The petitioner has also stated before this Court that already he has entered into a settlement with the respondent and that the amount, which is proposed to be paid him, as per settlement, is acceptable to him. He further stated that in terms of the settlement, which has already been effected between the parties, the reference be decided.

On having heard the versions, as made before this Court by Shri Rajesh Kosh, Advocate and the petitioner, I order that their statements be recorded which are accordingly recorded.

Considering the statement of the parties, I am satisfied that a lawful settlement, out of Court, has taken place between the parties.

Consequently, the reference, as made to this Court, which reads as under :

“Whether the termination of services of Shri Rajesh Chauhan S/o Shri Hira Lal workman by the Managing Director, M/s Tegaksha Metallics Pvt. Ltd., Industrial Area Shoghi, District Shimla, HP w.e.f. 25.11.2007, without complying the Industrial Disputes Act, 1947 is proper and justified? If not, to what relief of service benefits, back wages, seniority and amount of compensation the above aggrieved workman is entitled to ?”

Stands answered in terms of the statement of Shri Rajesh Kosh, Advocate which has also been admitted to be correct and acceptable by the petitioner. Let a copy of this award/order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:

2.1.2014

*Presiding Judge
Labour Court, Shimla.*

Ref. 64 of 2010

Pradeep Sharma V/s M/s Tegakasha Metallic Ltd. Shoghi

2.1.2014:—

Present:—Petitioner with Ms. Bindiya Negi, Advocate Vice Csl Kanwer Virender Singh, Advocate for Petitioner.

Shri Rajesh Kosh, Advocate for the respondent.

It has been stated before this Court by Shri Rajesh Kosh, Advocate for the respondent that already a settlement has taken place with the petitioner, out of Court. He further stated that the amount which has been settled between the parties shall be paid to the petitioner within ten day.

The petitioner has also stated before this Court that already he has entered into a settlement with the respondent and that the amount, which is proposed to be paid him, as per settlement, is acceptable to him. He further stated that in terms of the settlement, which has already been effected between the parties, the reference be decided.

On having heard the versions, as made before this Court by Shri Rajesh Kosh, Advocate and the petitioner, I order that their statements be recorded which are accordingly recorded.

Considering the statement of the parties, I am satisfied that a lawful settlement, out of Court, has taken place between the parties.

Consequently, the reference, as made to this Court, which reads as under :

“Whether the termination of services of Shri Rajesh Chauhan S/o Shri Hira Lal workman by the Managing Director, M/s Tegaksha Metallics Pvt. Ltd., Industrial Area Shoghi, District Shimla, HP *w.e.f.* 25.11.2007, without complying the Industrial Disputes Act, 1947 is proper and justified? If not, to what relief of service benefits, beck wages, seniority and amount of compensation the above aggrieved workman is entitled to ?”

Stands answered in terms of the statement of Shri Rajesh Kosh, Advocate which has also been admitted to be correct and acceptable by the petitioner. Let a copy of this award/order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:

2.1.2014

*Presiding Judge
Labour Court, Shimla.*

Ref. 65 of 2010

Rajeev Sharma V/s M/s Tegakasha Metallic Ltd. Shoghi

2.1.2014:—

Present:—Petitioner with Ms. Bindiya Negi, Advocate Vice Csl Kanwer Virender Singh, Advocate for Petitioner.

Shri Rajesh Kosh, Advocate for the respondent.

It has been stated before this Court by Shri Rajesh Kosh, Advocate for the respondent that already a settlement has taken place with the petitioner , out of Court. He further stated that the amount which has been settled between the parties shall be paid to the petitioner within ten day.

The petitioner has also stated before this Court that already he has entered into a settlement with the respondent and that the amount, which is proposed to be paid him, as per settlement, is acceptable to him. He further stated that in terms of the settlement, which has already been effected between the parties, the reference be decided.

On having heard the versions , as made before this Court by Shri Rajesh Kosh, Advocate and the petitioner, I order that their statements be recorded which are accordingly recorded.

Considering the statement of the parties, I am satisfied that a lawful settlement, out of Court, has taken place between the parties.

Consequently, the reference, as made to this Court, which reads as under :

“Whether the termination of services of Shri Rajesh Chauhan S/o Shri Hira Lal workman by the Managing Director, M/s Tegaksha Metalics Pvt. Ltd., Industrial Area Shoghi, District Shimla, HP *w.e.f.* 25.11.2007, without complying the Industrial Disputes Act, 1947 is proper and justified? If not, to what relief of service benefits, back wages, seniority and amount of compensation the above aggrieved workman is entitled to ?”

Stands answered in terms of the statement of Shri Rajesh Kosh, Advocate which has also been admitted to be correct and acceptable by the petitioner. Let a copy of this award/order be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:

2.1.2014

*Presiding Judge
Labour Court, Shimla.*

IN THE COURT OF A.S. JASWAL, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA, (H.P).

Ref. No. 103 of 2007.

Instituted on. 24.9.2007.

Issue no. 4 decided on 14.1.2014.

Mansa Ram S/o Shri Hazaru Ram R/o Village Sanahali, P.O. Kandhar, Tehsil Arki, District Solan, H.P. *..Petitioner.*

Vs.

The Senior Executive Engineer, Electrical Division, HPSEB Arki, District Solan, H.P. *..Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Virender Thakur, Advocate.

For respondent : Shri Ramakant Sharma, Advocate.

FINDINGS ON ISSUE NO. 4

Before, I proceed to give my findings on issue no. 4, back history of the case, in brief, needs to be narrated, which is as follows:

2. A reference, as under, was made to this Court by the appropriate government.

“Whether the termination of services of Shri Mansa Ram S/o Shri Hazaru Ram workman by the Senior Executive Engineer, Electrical Division, HPSEB Arki, District Solan, H.P *w.e.f.* 21.8.1994 without complying the provisions of the Industrial Disputes

Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to? ”

3. Consequent upon the reference, so made, a statement of claim was filed by the petitioner, wherein, he alleged that he was engaged as beldar by the respondent and worked at Sub Division, Darlaghat under Electricity Division, Arki District Solan *w.e.f.* 26.3.1982. On 20.2.1995, his services were orally terminated, without notice and compensation. He had also completed 240 days in one calendar year. After his termination, workers junior to him, were also engaged by the respondent.

4. The respondent contested the claim on having raised preliminary objections including maintainability and delay. On merits, it was denied that on 20.2.1995, the services of the petitioner had been orally terminated. In fact, he did not work continuously, during one calendar year, for 240 days. On his own, he had left the job and did not join the same. In this way, there has been no violation of the provisions of the Act.

5. Pleadings of the parties, gave rise to the following issues which were struck off on 8.7.2009.

1. Whether the termination of the services of Shri Mansa Ram petitioner by the Senior Executive Engineer, Electrical Division, HPSEB Arki, District Solan *w.e.f.* 21.8.1994 without complying the provisions of Industrial Disputes Act, 1947 is improper and unjustified as alleged? *..OPP.*
2. If issue no.1 is proved, to what relief of service benefits and amount of compensation the petitioner is entitled to? *..OPP.*
3. Whether the reference is not maintainable as alleged? *..OPR.*
4. Whether the reference is hit by delay and laches? *..OPR.*
5. Relief.

6. This Court on having heard the Learned Counsel for both the parties, as per award dated 6.10.2012, decided issue no.1 in “yes”. Issue no. 2, was decided, holding the petitioner to be entitled to reinstatement in service with seniority and continuity but without back wages. Issues no. 3 & 4, were decided in negative.

7. The award, passed by this Court, was challenged in the Hon’ble High Court by way of Civil Writ Petition no. 5344 of 2013-E, by the respondent, herein. As per order dated 5.11.2013, the Hon’ble High Court, set aside the findings, recorded by this Court on issue no. 4 and remanded the matter to this Court for answering the same, on its own merits, in accordance with law. It was also observed that this Court was to answer only issue of delay and laches and no other issue in the remanded proceedings. For the sake of convenience, **para nos. 4, 5 & 6, of the order of Hon’ble High Court, are reproduced herein below:**

“4. This reasoning, in our opinion, is untenable and to say the least perverse. Unless the issue of delay and laches is to be answered in the first place in favour of employee, the question of answering other issues on merits would not assume any significance. Learned Judge, however, has proceeded to jump to the conclusion that irrespective of the time period and inaction of the respondents, the question of delay and laches will have to be decided in favour of respondent. That approach is inappropriate. Recently,

we had occasion to consider similar grievance of disposing of issue of delay and laches in casual manner by the Labour Court in case of Executive Engineer Vs. Chhaje Ram being CWP No. 3087 of 2013 and companion cases decided on 19.10.2013. Even in the present case, we are inclined to set aside the finding recorded by the Labour Court on issue No. 4 concerning delay and laches in making reference and instead remit matter to the Labour Court for answering the same on its own merits in accordance with law. In other words, Labour Court shall answer only issue of delay and laches and no other issue in the remanded proceedings.

5. For the time being, we are not examining the correctness of decision on other issues answered by the Labour Court in the impugned judgment. In the event, issue of delay and laches in making reference is answered against the petitioner. It will be open to the petitioner to challenge the said findings in appropriate proceedings and in which proceedings, those issues can be considered on its own merits in accordance with law. We leave those questions open to be considered in the appropriate proceedings.

6. The parties shall appear before the Labour Court on 18.11.2013 on which date, Labour Court shall assign suitable date for hearing of the case on the issue of delay and laches, *i.e.* issue No. 4 while ensuring that the same is finally answered one way or the other and not later than 31.1.2014.”

8. Pursuance to the order dated 5.11.2013, of the Hon’ble High Court, the parties, through their counsel, appeared before this Court. Now, issue no. 4, which reads as under, is to be decided by this Court, as per the order of the Hon’ble High Court.

4. Whether the reference is hit by delay and laches? ..*OPR.*

9. For the reasons to be recorded hereinafter, my findings on issue no. 4, are as under:

Issue no. 4 No.

Reasons for finding

11. Ld. Counsel for the respondent has urged with vehemence that there has been inordinate delay in making the reference to this Court, which, in fact, was made on 15th September, 2007. As per the contention of the petitioner, his services had been terminated *w.e.f.* 21.8.1994, in an illegal and unjustified manner, in violation of the provisions of the Act. This goes to show that about 12 years, the reference was made to this Court by the appropriate government. The Ld. Counsel urged that for this reason, the reference, which has been made to this Court, suffers from delay and laches and deserves to be dismissed/rejected. On the other hand, Ld. Counsel for the petitioner submitted that on the ground of delay and laches, in making the reference to this Court, the same cannot be rejected/dismissed. He further urged that under section 11 of the Act, this Court is required to answer the reference, which has been made to it, by the appropriate government, under section 10. Thus, on the plea that the reference, which has been made to this Court, suffers from delay and laches, it cannot be rejected/dismissed.

11. When regard is given to the reply, filed by the respondent, it is revealed that a preliminary objection has been taken that the reference, which has been made to this Court, is hit by delay and laches because the petitioner had raised the industrial dispute after a lapse of 9 years. As far as, the onus to prove issue no.4 is concerned, it is upon the respondent. When regard is given to the evidence of Shri Inder Singh (RW-1), it is revealed that he has not stated a single word that after about 9 years, the petitioner had raised the industrial dispute. In fact, his evidence is silent as

far as alleged delay and laches, in making reference, is concerned. Here, I may like to point out that the respondent upon whom the onus to prove this issue lies did not bring on record the demand notice which had been raised by the petitioner in respect of his alleged illegal termination w.e.f. 21.8.1994. Now, I would like to refer to section 10 of the Act, which reads as under:

“Reference of disputes to Boards, Courts or Tribunals.—(1) [Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing,—

- (a) refer the dispute to a Board for promoting a settlement thereof; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry” or.....

12. The perusal of the aforesaid section goes to show that the Government’s power to refer an industrial dispute, for adjudication, has thus one limitation of time and that is, it can be done only so long as the dispute exists. In other words, the period envisaged by the enduring expression “at any time” terminates with the eclipse of the industrial dispute. It therefore, means that if the dispute existed on the day when the reference was made by the Government, it is idle to ascertain the number of years which elapsed since the commencement of the dispute to determine whether the delay would have extinguished the power of the Government to make the reference. **Thus, the real test is the existence of industrial dispute on the day of reference for adjudication.** It is further to be noted that the only authority which can form such an opinion is the Government. If it (Government) decides to make the reference, there is a presumption that in its opinion there exists such dispute. **Hon’ble Apex Court in Western India match Co. Ltd. Vs. Workers Union, (1970) 1 SCC 225,** made the following observations, in para no 8:

“Therefore, the expression "at any time" though seemingly without any limits, is governed by the context in which it appears. Ordinarily, the question of making a reference would arise after conciliation proceedings have been gone through and the conciliation officer has made a failure report. But the Government need not wait until such a procedure has been completed. In an urgent case, it can "at any time", i.e., even when such proceedings have not begun or are still pending, decide to refer the dispute for adjudication. The expression "at any time" thus takes in such cases as where the Government decides to make a reference without waiting for conciliation proceedings to begin or to be completed. As already stated, the expression "at any time" in the context in which it is used postulates that a reference can only be made if an industrial dispute exists or is apprehended. No reference is contemplated by the section when the dispute is not an industrial dispute, or even if it is so, it no longer exists or is not apprehended, for, instance, where it is already adjudicated or in respect of which there is an agreement or a settlement between the parties or where the industry in question is no longer in existence.”

13. Having regard to the observations of the Hon’ble Apex Court (Supra), the present reference, which has been made to this Court by the appropriate government, cannot be said to be bad on account of delay and laches. It has been held by the **Hon’ble Supreme Court in Gurmil Singh Vs. Principal Government College of Education and others, (2000) 9, SCC 496** that “Mere delay in challenging the termination would not be a bar to the adjudication of the matter but could only deprive the appellant of his back wages for the period of delay in raising the termination issue.”

14. Consequently, On the basis of law (Supra), and my discussion, foregoing, I without hesitation hold that the respondent has failed to prove that this reference, which has been made to

this Court, by the appropriate government, is hit by delay and laches. Accordingly, my answer to this issue is in "No".

15. Pursuance to the order passed by the Hon'ble High Court, the findings on issue no. 4, aforesaid, stand returned. **Consequently, this order shall form part and parcel of the award, passed by this Court in reference no. 103/2007, decided on 6.10.2012.** Let a copy of findings on issue no.4, returned by this Court, be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 14th day of Jan., 2014.

*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

IN THE COURT OF A.S. JASWAL, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA, (H.P).

Ref No. 103 of 2007.

Instituted on. 24.9.2007.

Issue no.4 decided on 14.1.2014.

Mansa Ram S/o Shri Hazaru Ram R/o Village Sanahali, P.O. Kandhar, Tehsil Arki, District Solan, H.P. *..Petitioner.*

Vs.

The Senior Executive Engineer, Electrical Division, HPSEB Arki, District Solan, H.P. *..Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Virender Thakur, Advocate.

For respondent : Shri Ramakant Sharma, Advocate.

FINDINGS ON ISSUE NO. 4

Before, I proceed to give my findings on issue no. 4, back history of the case, in brief, needs to be narrated, which is as follows:

2. A reference, as under, was made to this Court by the appropriate government.

"Whether the termination of services of Shri Mansa Ram S/o Shri Hazaru Ram workman by the Senior Executive Engineer, Electrical Division, HPSEB Arki, District Solan, H.P. w.e.f. 21.8.1994 without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to? "

3. Consequent upon the reference, so made, a statement of claim was filed by the petitioner, wherein, he alleged that he was engaged as beldar by the respondent and worked at Sub Division, Darlaghat under Electricity Division, Arki District Solan *w.e.f.* 26.3.1982. On 20.2.1995, his services were orally terminated, without notice and compensation. He had also completed 240 days in one calendar year. After his termination, workers junior to him, were also engaged by the respondent.

4. The respondent contested the claim on having raised preliminary objections including maintainability and delay. On merits, it was denied that on 20.2.1995, the services of the petitioner had been orally terminated. In fact, he did not work continuously, during one calendar year, for 240 days. On his own, he had left the job and did not join the same. In this way, there has been no violation of the provisions of the Act.

5. Pleadings of the parties, gave rise to the following issues which were struck off on 8.7.2009.

6. Whether the termination of the services of Shri Mansa Ram petitioner by the Senior Executive Engineer, Electrical Division, HPSEB Arki, District Solan *w.e.f.* 21.8.1994 without complying the provisions of Industrial Disputes Act, 1947 is improper and unjustified as alleged? ..*OPP.*

7. If issue no. 1 is proved, to what relief of service benefits and amount of compensation the petitioner is entitled to? ..*OPP.*

8. Whether the reference is not maintainable as alleged? ..*OPR.*

9. Whether the reference is hit by delay and laches? ..*OPR.*

10. Relief.

6. This Court on having heard the Learned Counsel for both the parties, as per award dated 6.10.2012, decided issue no. 1 in “yes”. Issue no. 2, was decided, holding the petitioner to be entitled to reinstatement in service with seniority and continuity but without back wages. Issues no. 3 & 4, were decided in negative.

7. The award, passed by this Court, was challenged in the Hon’ble High Court by way of Civil Writ Petition no. 5344 of 2013-E, by the respondent, herein. As per order dated 5.11.2013, the Hon’ble High Court, set aside the findings, recorded by this Court on issue no. 4 and remanded the matter to this Court for answering the same, on its own merits, in accordance with law. It was also observed that this Court was to answer only issue of delay and laches and no other issue in the remanded proceedings. For the sake of convenience, **para nos. 4, 5 & 6, of the order of Hon’ble High Court, are reproduced herein below:**

“4. This reasoning, in our opinion, is untenable and to say the least perverse. Unless the issue of delay and laches is to be answered in the first place in favour of employee, the question of answering other issues on merits would not assume any significance. Learned Judge, however, has proceeded to jump to the conclusion that irrespective of the time period and inaction of the respondents, the question of delay and laches will have to be decided in favour of respondent. That approach is inappropriate. Recently, we had occasion to consider similar grievance of disposing of issue of delay and laches in casual manner by the Labour Court in case of Executive Engineer Vs. Chhaje Ram being CWP No. 3087 of 2013 and companion cases decided on 19.10.2013. Even in the

present case, we are inclined to set aside the finding recorded by the Labour Court on issue No. 4 concerning delay and laches in making reference and instead remit matter to the Labour Court for answering the same on its own merits in accordance with law. In other words, Labour Court shall answer only issue of delay and laches and no other issue in the remanded proceedings.

5. For the time being, we are not examining the correctness of decision on other issues answered by the Labour Court in the impugned judgment. In the event, issue of delay and laches in making reference is answered against the petitioner. It will be open to the petitioner to challenge the said findings in appropriate proceedings and in which proceedings, those issues can be considered on its own merits in accordance with law. We leave those questions open to be considered in the appropriate proceedings.

6. The parties shall appear before the Labour Court on 18.11.2013 on which date, Labour Court shall assign suitable date for hearing of the case on the issue of delay and laches, *i.e.* issue No. 4 while ensuring that the same is finally answered one way or the other and not later than 31.1.2014.”

8. Pursuance to the order dated 5.11.2013, of the Hon’ble High Court, the parties, through their counsel, appeared before this Court. Now, issue no. 4, which reads as under, is to be decided by this Court, as per the order of the Hon’ble High Court.

5. **Whether the reference is hit by delay and latches?** ..OPR.

9. For the reasons to be recorded hereinafter, my findings on issue no. 4, are as under:

Issue no. 4 **No.**

Reasons for finding.

11. Ld. Counsel for the respondent has urged with vehemence that there has been inordinate delay in making the reference to this Court, which, in fact, was made on 15th September, 2007. As per the contention of the petitioner, his services had been terminated *w.e.f.* 21.8.1994, in an illegal and unjustified manner, in violation of the provisions of the Act. This goes to show that about 12 years, the reference was made to this Court by the appropriate government. The Ld. Counsel urged that for this reason, the reference, which has been made to this Court, suffers from delay and laches and deserves to be dismissed/rejected. On the other hand, Ld. Counsel for the petitioner submitted that on the ground of delay and laches, in making the reference to this Court, the same cannot be rejected/dismissed. He further urged that under section 11 of the Act, this Court is required to answer the reference, which has been made to it, by the appropriate government, under section 10. Thus, on the plea that the reference, which has been made to this Court, suffers from delay and laches, it cannot be rejected/dismissed.

11. When regard is given to the reply, filed by the respondent, it is revealed that a preliminary objection has been taken that the reference, which has been made to this Court, is hit by delay and laches because the petitioner had raised the industrial dispute after a lapse of 9 years. As far as, the onus to prove issue no. 4 is concerned, it is upon the respondent. When regard is given to the evidence of Shri Inder Singh (RW-1), it is revealed that he has not stated a single word that after about 9 years, the petitioner had raised the industrial dispute. In fact, his evidence is silent as far as alleged delay and laches, in making reference, is concerned. Here, I may like to point out that the respondent upon whom the onus to prove this issue lies did not bring on record the demand

notice which had been raised by the petitioner in respect of his alleged illegal termination *w.e.f.* 21.8.1994. Now, I would like to refer to section 10 of the Act, which reads as under:

“Reference of disputes to Boards, Courts or Tribunals.—(1) [Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing,—

- (a) refer the dispute to a Board for promoting a settlement thereof; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry” or.....

12. The perusal of the aforesaid section goes to show that the Government’s power to refer an industrial dispute, for adjudication, has thus one limitation of time and that is, it can be done only so long as the dispute exists. In other words, the period envisaged by the enduring expression “at any time” terminates with the eclipse of the industrial dispute. It therefore, means that if the dispute existed on the day when the reference was made by the Government, it is idle to ascertain the number of years which elapsed since the commencement of the dispute to determine whether the delay would have extinguished the power of the Government to make the reference. **Thus, the real test is the existence of industrial dispute on the day of reference for adjudication.** It is further to be noted that the only authority which can form such an opinion is the Government. If it (Government) decides to make the reference, there is a presumption that in its opinion there exists such dispute. **Hon’ble Apex Court in Western India match Co. Ltd. Vs. Workers Union, (1970) 1 SCC 225,** made the following observations, in para no 8:

“Therefore, the expression "at any time" though seemingly without any limits, is governed by the context in which it appears. Ordinarily, the question of making a reference would arise after conciliation proceedings have been gone through and the conciliation officer has made a failure report. But the Government need not wait until such a procedure has been completed. In an urgent case, it can "at any time", *i.e.*, even when such proceedings have not begun or are still pending, decide to refer the dispute for adjudication. The expression "at any time" thus takes in such cases as where the Government decides to make a reference without waiting for conciliation proceedings to begin or to be completed. As already stated, the expression "at any time" in the context in which it is used postulates that a reference can only be made if an industrial dispute exists or is apprehended. No reference is contemplated by the section when the dispute is not an industrial dispute, or even if it is so, it no longer exists or is not apprehended, for, instance, where it is already adjudicated or in respect of which there is an agreement or a settlement between the parties or where the industry in question is no longer in existence.”

13. Having regard to the observations of the Hon’ble Apex Court (Supra), the present reference, which has been made to this Court by the appropriate government, cannot be said to be bad on account of delay and laches. It has been held by the **Hon’ble Supreme Court in Gurmail Singh Vs. Principal Government College of Education and others, (2000) 9, SCC 496** that “Mere delay in challenging the termination would not be a bar to the adjudication of the matter but could only deprive the appellant of his back wages for the period of delay in raising the termination issue.”

14. Consequently, On the basis of law (Supra), and my discussion, foregoing, I without hesitation hold that the respondent has failed to prove that this reference, which has been made to

this Court, by the appropriate government, is hit by delay and laches. Accordingly, my answer to this issue is in "No".

15. Pursuance to the order passed by the Hon'ble High Court, the findings on issue no. 4, aforesaid, stand returned. **Consequently, this order shall form part and parcel of the award, passed by this Court in reference no. 103/2007, decided on 6.10.2012.** Let a copy of findings on issue no. 4, returned by this Court, be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 14th day of Jan., 2014.

*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA.

Ref no. 54 of 2013.

Instituted on 5.8.2013.

Decided on 9.1.2014.

Ram Singh S/o Shri Chanan Singh C/o Shri Om Dutt Sharma, Sheel Cottage, VPO Taksal, Tehsil Kasauli, District Solan, HP. *..Petitioner.*

V/S.

The Employer/Factory Manager, M/s Deekay Enterprises, Plot no. 21, Sector-2, Parwanoo, District Solan, HP. *..Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : None.

For respondent : None.

AWARD/ORDER

The reference for adjudication, is as under:—

“Whether termination of the services of Shri Ram Singh S/o Shri Chanan Singh C/o Shri Om Dutt Sharma, Sheel Cottage, VPO Taksal, Tehsil Kasauli, District Solan HP by the Employer/Factory Manager, M/s Deekay Enterprises, Plot no. 21, Sector-2, Parwanoo, District Solan, HP w.e.f. 12/12/2011, without complying the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. Notices were issued to the petitioner as well as respondent for 9/1/2014, but despite the service of the same, they failed to appear before this Court. I may mention that on 28/2/2013,

notices had been ordered to be issued to the parties returnable for 3/12/2013, through registered post with AD. For the said date *i.e.* 3/12/2013, notice had been duly served upon the petitioner, through registered post, as per report made on the AD. Despite that, another notice, on 3/12/2013, had been ordered to be issued to the parties, including petitioner, returnable for 9/1/2014, but even today, neither the petitioner, on having been served, as per law, has appeared before this Court nor the respondent.

3. In these circumstances, when the parties are not inclined to appear before this Court, despite having been served, this Court has been left with no other alternative but to decide the reference on the basis of material, whichever, is available before it.

4. From the reference, it is highlighted that the petitioner (Ram Singh) had alleged his termination of services *w.e.f.* 12/12/2011, to be illegal and unjustified for being against the provisions of Industrial Disputes Act, 1947. Since, he has preferred, not to appear before this Court, despite having been served, in accordance with law, there is no material, whatsoever, in order to substantiate his contention that his services have been terminated *w.e.f.* 12/12/2011, without complying with the provisions of the Industrial Disputes Act, 1947, by the respondent. Thus, this reference is required to be decided against him. Accordingly, I answer this reference against the petitioner. Let a copy of this award/order be sent to the appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced:

9/1/2014

*Presiding Judge,
Labour Court, Shimla.*

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA, (H.P).

Ref. No. 21 of 2010

Instituted 12.4.2010

Decided 13.1.2014

Rishi Kumar S/o Banwari Lal. VPO Naujheel, Mahura, Uttar Pradesh.

..Petitioner.

Vs.

The Factory Manager M/s Kilitch Drugs (India) Ltd. Nalagarh, Tehsil Paonta Sahib, Distt. Sirmour, H.P.

..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri R.K. Khidta, Advocate.

For respondent : Shri Sanjeev Sharma, Advocate.

AWARD

The reference for adjudication, is as under:—

“Whether demand of Sh. Rishi Kumar S/O Sh. Banwari Lal before the management of M/s Kilitch Drugs(India) Ltd. Nihargarh. Tehsil Paonta Sahib, Distt. Sirmour, H.P. for the payment of bonus, earned leave, earned wages and compensation is proper and justified? If yes, what relief the aggrieved workman is entitled to?”

2. The contention of the petitioner is that in the month of December, 2006, he was engaged as Q.C. (quality Control Officer) by the respondent company and worked as such till 10.7.2008. Due to some compelling circumstances, he was forced to resign from the post and his resignation was duly accepted by the respondent. Consequent upon the acceptance of his resignation, he was entitled to all the benefits, such as, bonus, earned leave, earned wages and compensation but the same were denied to him, despite repeated requests. The bonus for the year, 2009-10, which has not been paid to him comes to Rs. 9630/-, wages on earned leave, Rs. 15,000/-, earned wages, Rs. 15,000/-, and compensation Rs. 15,000/-, total Rs. 54636/-. The respondent is bound to pay aforesaid amount along-with interest @ 12% per annum.

3. The petition has been contested by raising various preliminary objections including maintainability because the petitioner is not a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947 (hereinafter referred as Act). On merits, it has been asserted that during his service carrier, the performance of the petitioner was below standard and in this regard, he had been communicated on various occasions by his superiors. Despite so, he did not improve his performance. Further, it is averred that the petitioner had voluntarily resigned from his services, in contravention of the terms and conditions, as stipulated in the appointment letter, as per which he was required to have given one month's prior notice. Before resignation, he (petitioner) also did not complete his assignment. This clearly shows that he had abandoned his services. Further, the respondent had calculated the various dues which were payable to the petitioner but the same were not acceptable to him. Other allegations denied.

4. By filing rejoinder, the petitioner has reaffirmed his own allegations by denying those of the respondent.

5. Pleadings of the parties gave rise to the following issues which were struck off on 14.3.2012:

1. Whether the demand raised by the petitioner before the respondent for payment of bonus, earned leave, earned wages and compensation, is proper and justified? ..*OPP.*
2. If issue no.1 is proved in affirmative, to what relief the petitioner is entitled to? ..*OPP.*
3. Whether the petitioner is not a workman? ..*OPR.*
4. Whether the petitioner himself abandoned the job? ..*OPR.*
5. Whether this petition is not maintainable? ..*OPR.*
6. Relief.

6. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no. 1 No.

Issue no. 2 Becomes redundant.

Issue no. 3	No.
Issue no. 4	No.
Issue no. 5	No.
Relief.	Reference answered against the petitioner and in favour of respondent, per operative part of award.

Reasons for findings.

Issue no. 1& 2.

8. Before I proceed further, I would like to point out that on being afforded several opportunities, the petitioner had failed to lead his evidence. On 5.7.2013, the case was adjourned for 6.8.2013. On that date, it had been made clear that on the fixed date *i.e.* 6.8.2013, if the petitioner had failed to lead evidence, the same shall stand closed by the order of this Court. On 6.8.2013, when the case was taken up, neither the petitioner was present nor his other witness/witnesses. An application, which had been filed by the petitioner, through Shri R.K. Khidta, Advocate, seeking adjournment, was allowed and one more opportunity was given to the petitioner for leading his evidence. The case was thus adjourned to 16.9.2013, for the evidence of the petitioner. On the fixed date *i.e.* 16.9.2013, neither the petitioner was present nor his witness/witnesses. Thus, his evidence, in terms of order dated 5.7.2013, was closed by this Court. Since, the petitioner did not lead evidence, no evidence was led by the respondent.

9. The contention of the petitioner is that consequent upon his forced resignation, he was entitled to be paid bonus, payment of earned leave, earned wages and compensation, as per their mention given in para no. 5, of the claim petition. The defence version is to this effect that the petitioner had voluntarily resigned, from service, without having complied with the terms and conditions, as stipulated in the appointment letter because he had not given one month's prior notice. It has further been urged that the benefits, which were admissible to the petitioner, had been calculated but the same were not acceptable to him.

10. When, a specific plea has been taken by the respondent that the benefits, as were due and admissible to the petitioner, had been calculated but the same were not acceptable to him, then, it was required of the petitioner to have led evidence, before this Court, in order to substantiate his contention that in fact, he was entitled to the benefits as have been claimed by him and not as calculated by the respondent. For his failure to have appeared in the witness box, as his own witness, there is no evidence, whatsoever, before this Court which could go to prove his contention that he is entitled to the benefits of payment of bonus etc., as claimed by him. I may observe that he was required to lead substantive evidence in order to prove his claim regarding his entitlement for the payment of bonus etc. It is true that Shri R.K. Khida, Advocate has submitted that since, the respondent had admitted that some benefits are required to be paid to the petitioner, for this reason, the failure of the petitioner to have led evidence, does not go to weaken his case, as has been put forth before this Court. This contention of the learned counsel fails to convince me because for want of examination of the petitioner, before this Court, it cannot be said that, in fact, what benefits, he is entitled to claim and that which benefits were being offered to him by the respondent. I may also like to point out that a plea has also been taken by the respondent that the petitioner had resigned from service in contravention of the terms and conditions of the appointment letter, as per which, he was required to have given one month's prior notice, before resigning. Further, as per preliminary objection no. 6, a plea has been taken that the respondent had calculated the outstanding amount, payable as full & final settlement to the petitioner, to be Rs.

8350/-. This goes to show that as per the respondent, the amount by way of full & final settlement, which was payable to the petitioner, was Rs. 8350-, and not as claimed by him. If the petitioner was to disprove the amount, as was calculated to be paid to him, as full & final settlement, it was obligatory upon him to have led specific evidence.

11. Thus, for my above discussion and also that the petitioner has failed to lead evidence, in support of his claim, I have been left with no other alternative but to hold that he (petitioner) has failed to prove this issue to which my answer is in “no”.

Issue no. 2

12. In view of my findings on issue no.1, this issue becomes redundant and accordingly, it is decided as such.

Issue no. 3

13. In the reply, which has been filed by the respondent, definition of the workman, as given in section 2(s), has been mentioned. On having perused the definition, so mentioned by the respondent, I have no hesitation in stating that the same is not as per the amended definition, as given in the Act. It is to be noted that as per the amended definition, a person is not a workman, if employed in supervisory capacity, if he draws wages exceeding Rs. 10,000/- per mensem. This goes to show that a person, employed in a supervisory capacity, is a workman if he does not draw wages exceeding Rs. 10,000/- per mensem. On the record, the respondent has brought salary breakup of the petitioner, which goes to show that he gets total salary to the tune of Rs. 8,000/-, including allowances etc. Further, I may like to point out that a supervisory capacity contemplates direction and control. Thus, it is necessary to prove that there were some persons working under a person who works in supervisory capacity. In other words, it can be said that to prove supervisory capacity, it is required to be shown that some persons have been working under the supervisor, whose work, he is required to supervise. In the instant case, the respondent has also not led evidence, as said above. For its failure to have led evidence, it has remained unproved, on record, that the petitioner is not a workman, as per amended definition as given in section 2 (s) of the Act. Thus, my answer to this issue is in “no”.

Issue no. 4

14. Although, a plea has been taken by the respondent that the petitioner had himself abandoned the job but in support thereof, no evidence has been led. On the contrary, it is admitted case of the petitioner that he had resigned from service. In these circumstances, when the respondent itself admits that the petitioner had resigned, it cannot be said that he had abandoned his job. Definitely, there is a difference between resigning and abandoning the job. Consequently, my answer to this issue is in “no”.

Issue no. 5

15. An objection has also been taken by the respondent that this petition is not maintainable. The main plea of the respondent, in alleging this petition to be not maintainable, is that the petitioner is not a workman, as per section 2 (s) of the Act. While deciding issue no. 3, above, it has already been held by me that the respondent has failed to prove that the petitioner is not a workman. In these circumstances, when the petitioner can be said to be a workman, in terms of amended section 2(s) of the Act, this petition is required to be held to be maintainable, which I accordingly hold. Thus, my answer to this issue is in “no”.

Relief.

As a sequel to my findings on the aforesaid issues, this petition deserves to be dismissed and accordingly, it is dismissed with the result the reference is answered against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Announced in the open court today on this 13th day of Jan., 2014.

*Presiding Judge,
Industrial Tribunal-cum-
Labour Court, Shimla.*

10/1/2014.

Present:—Shri Kapoor Chand Verma, President, Oberoi Clarks and Cecil Hotel Employees Union, Shimla and Shri Shyam Lal, General Secretary of the said union.

Shri D.P. Bhatiya, General Manager, Clarks Hotel, Shimla with Shri Tara Chand, Supervisor, Clarks Hotel Shimla.

Before this Court, it has been stated by Shri Kapoor Chand, President of the Oberoi Clarks and Cecil Hotel Employees Union, Shimla that, out of Court, a settlement/compromise has been effected between the parties. He has also filed the memorandum of settlement, so arrived at between the parties. Shri D.P. Bhatiya, General Manager, Clarks Hotel Shimla, has also stated in the same trans.

2. From the statements, made before this Court, I am satisfied that a lawful settlement has already been effected between the parties, in terms of memorandum of settlement, which has been filed before this Court.

3. Consequently, in this regard, I proceed to record the statements of the parties, which are recorded accordingly.

4. The reference, which has been made to this Court, is as under:

“Whether the demands raised by the General Secretary, Hotel Oberoi Clarks and Cecil Employees Union Shimla (Regd. No. 313/18/8/1984). Regd. Office, Hotel Oberoi Clarks Shimla 171001 vide demand notice dated 17/12/2012 (copy enclosed) before the General Manager, Clarks Hotel, The Mall Shimla regarding increment of wages on percentage basis, is legal and justified? If yes, what monitory and other benefits, the aggrieved workers/employees of the Hotel Oberoi Clarks are entitled to from the above employer/management?”

5. Since, a lawful settlement/compromise has been effected between the parties, in terms of Ex. PA, the aforesaid reference, which has been made to this Court, stands disposed of/answered. Be it clarified that memorandum of settlement, Ex. PA, and the statement of the parties, recorded today, shall form part and parcel of the award passed by this Court. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:

10/1/2014.

*Presiding Judge,
Labour Court, Shimla.*

लोक निर्माण विभाग

अधिसूचना

शिमला-2, 21 फरवरी, 2014

सं0पी0बी0डब्ल्यू0(बी0)एफ-5) 31/2013.—यतः हिमाचल प्रदेश के राज्यपाल को यह प्रतीत होता है कि हिमाचल प्रदेश सरकार को सरकारी व्यय पर सार्वजनिक प्रयोजन हेतु गांव नंगल निहला, तहसील नालागढ़, जिला सोलन, हिमाचल प्रदेश में राष्ट्रीय उच्च मार्ग-21ए पिन्जौर-बद्दी-नालागढ़-स्वारघाट को चौड़ा करने के निर्माण हेतु भूमि अर्जित करनी अपेक्षित है, अतएव एतद्वारा यह घोषित किया जाता है कि निम्नलिखित विवरणी में वर्णित भूमि उपर्युक्त प्रयोजन के लिए अपेक्षित है।

2. यह घोषणा, भूमि अर्जन अधिनियम, 1894 की धारा-6 के उपबन्धों के अधीन इससे सम्बन्धित सभी व्यक्तियों को सूचना हेतु की जाती है तथा उक्त अधिनियम की धारा-7 के अधीन भू-अर्जन समाहर्ता लोक निर्माण विभाग, विन्टर फील्ड शिमला को उक्त भूमि के अर्जन करने के आदेश लेने का एतद्वारा निदेश दिया जाता है।

3. भूमि रेखांक का निरीक्षण भू-अर्जन समाहर्ता, लोक निर्माण विभाग, विन्टर फील्ड शिमला, हिमाचल प्रदेश के कार्यालय में किया जा सकता है।

विवरणी

जिला	तहसील	गांव	खसरा नं0	रकवा (बीघा में)
सोलन	नालागढ़	नंगल निहला	141 / 1	0-4
			133 / 1	0-7
			132	0-2
			131 / 1	0-2
			130 / 1	0-2
			107 / 1	0-7
			103 / 1	0-4
			102 / 1	0-4
			100 / 1	0-9
			97 / 1	0-4
			728 / 235 / 1	0-1
			729 / 235 / 1	0-1
			730 / 235 / 1	0-1
			818 / 727 / 227 / 1	0-5
			726 / 227 / 1	0-7
			861 / 817 / 727 / 227 / 1	0-1

862 / 817 / 727 / 227 / 1	0-2
225 / 1	0-5
224 / 1	0-2
211 / 1	0-3
210 / 1	0-6
777 / 209 / 1	0-1
776 / 209 / 1	0-1
777 / 209 / 1 / 1	0-1
940 / 208 / 1	0-1
936 / 208 / 1	0-1
935 / 208 / 1	0-1
196 / 1	0-1
718 / 198 / 1	0-1
717 / 198 / 1	0-1
769 / 197 / 1	0-3
808 / 770 / 197 / 1	0-4
807 / 770 / 197 / 1	0-1
195 / 1	0-2
194 / 1	0-4
169 / 1	0-18
167 / 1	0-15
150 / 1	0-8
149 / 1	0-4
934 / 208 / 1	0-2
941 / 208 / 1	0-1
939 / 208 / 1	0-1
98 / 1	0-3
किता: 43	7-14

आदेश द्वारा,
हस्ताक्षरित / -
प्रधान सचिव (लोक निर्माण)।

स्थानीय लेखा परीक्षा विभाग

अधिसूचना

शिमला—171009, 19 फरवरी, 2014

संख्या: 1-60/69-फिन(एल0ए0)खण्ड—XIX—1184.—राज्यपाल, हिमाचल प्रदेश सहर्ष आदेश देते हैं कि स्थानीय लेखा परीक्षा विभाग, हिमाचल प्रदेश के निम्नलिखित अधिकारी उनके नाम के आगे दर्शाई गई तिथियों को अधिवर्षिता की आयु पूर्ण करने पर सरकारी सेवा से सेवा निवृत्त होंगे:—

क्रम संख्या	अधिकारी का नाम व पदनाम	सेवा निवृत्त होने की तिथि
1.	श्री सुरेश चन्द गुप्ता, सहायक निदेशक {प्रथम श्रेणी—राजपत्रित},	28-02-2014 {अपराह्न}
2.	श्री जगजीत सिंह पटियाल, सहायक नियन्त्रक {प्रथम श्रेणी—राजपत्रित},	31.05.2014 {अपराह्न}
3.	श्री धर्म सिंह चौधरी, संयुक्त नियन्त्रक {प्रथम श्रेणी—राजपत्रित},	30.06.2014 {अपराह्न}
4.	श्रीमती मीरा गौतम, अनुभाग अधिकारी {द्वितीय श्रेणी—राजपत्रित},	30.06.2014 {अपराह्न}

आदेश द्वारा,
हस्ताक्षरित /—
प्रधान सचिव (वित्त)।

HIGH COURT OF HIMACHAL PRADESH SHIMLA-171001

NOTIFICATION

Shimla, the 3rd February, 2014

No.HHC/Admn.16(15)74-IV.—Hon'ble the Acting Chief Justice, in exercise of the powers vested in him U/S 139(b) of the code of Civil Procedure, 1908, U/S 297(b) of the code of Criminal procedure, 1973 and Rule 5(vi) of the H.P. Oath Commissioners (Appointment & Control) Rules, 2007 has been pleased to appoint Sh. Hira Singh, Advocate, Kandaghat as oath Commissioner at Kandaghat, H.P. for a period of two years, with immediate effect, for administering oaths and affirmations on affidavits to the deponents, under the aforesaid Codes and Rules.

By order,
Sd/-
Registrar general.

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचना

शिमला, 21 फरवरी, 2014

सं०:वि०स०-विधायन-सरकारी विधेयक/1-17/2014.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम, 262 व सदन द्वारा पारित प्रस्ताव के अनुसरण में माननीय अध्यक्ष महोदय, ने सदन की प्रवर समिति में सभापति एवं सदस्यों का निम्न प्रकार से नामांकन किया है :

1.	श्री कौल सिंह ठाकुर, माननीय स्वास्थ्य एवं परिवार कल्याण मन्त्री	:	सभापति
2.	श्री गुलाब सिंह ठाकुर	:	सदस्य
3.	श्री कुलदीप कुमार	:	सदस्य
4.	श्री अजय महाजन	:	सदस्य
5.	श्री विजय अग्निहोत्री	:	सदस्य
6.	श्री करनेश जंग	:	सदस्य
7.	श्री बम्बर ठाकुर	:	सदस्य

समिति, हिमाचल प्रदेश लोकायुक्त विधेयक, 2014 (2014 का विधेयक संख्यांक 6) पर विचार करने के उपरान्त सदन में अपना प्रतिवेदन प्रस्तुत करेगी।

(सुन्दर सिंह वर्मा),
सचिव,
हि० प्र० विधान सभा।

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचना

शिमला, 21 फरवरी, 2014

सं०:वि०स०-विधायन-सरकारी विधेयक/1-17/2014.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम, 262 व सदन द्वारा पारित प्रस्ताव के अनुसरण में माननीय अध्यक्ष महोदय, ने सदन की प्रवर समिति में सभापति एवं सदस्यों का निम्न प्रकार से नामांकन किया है :

1.	श्री सुधीर शर्मा, माननीय शहरी विकास मन्त्री	:	सभापति
2.	श्रीमती आशा कुमारी	:	सदस्य
3.	श्री महेश्वर सिंह	:	सदस्य
4.	श्री सुरेश भारद्वाज	:	सदस्य
5.	श्री बी०के० चौहान	:	सदस्य
6.	श्री अनिरुद्ध सिंह	:	सदस्य
7.	श्री संजय रतन	:	सदस्य

समिति, हिमाचल प्रदेश नगर और ग्राम योजना (संशोधन) विधेयक, 2014 (2014 का विधेयक संख्यांक 5) पर विचार करने के उपरान्त सदन में अपना प्रतिवेदन प्रस्तुत करेगी।

(सुन्दर सिंह वर्मा),
सचिव,
हि० प्र० विधान सभा।

HIMACHAL PRADESH TWELFTH VIDHAN SABHA**NOTIFICATION***Shimla-171004, the 24th February, 2014*

No. V.S.-Legn.-Pri/1-1/2013.—The following order by the Governor of the State of Himachal Pradesh, dated the 22nd February, 2014 is hereby published for general information:—

“मैं, उर्मिला सिंह, राज्यपाल, हिमाचल प्रदेश, भारतीय संविधान के अनुच्छेद 174 (2) (ए) द्वारा प्रदत्त शक्तियों के अनुसरण में हिमाचल प्रदेश बारहवीं विधान सभा के पंचम सत्र का तत्काल सत्रावसान करती हूँ।

उर्मिला सिंह,
राज्यपाल,
हिमाचल प्रदेश।”

By Order:—

SUNDER SINGH VERMA,
Secretary,
H.P. Vidhan Sabha.

अधिसूचना

शिमला-171004, 24 फरवरी, 2014

सं०:वि०स०-विधायन-प्रा०/1-1/2013.—राज्यपाल महोदया का निम्नलिखित आदेश दिनांक 22 फरवरी, 2014 सर्वसाधारण की सूचनार्थ प्रकाशित किया जाता है :—

“मैं, उर्मिला सिंह, राज्यपाल, हिमाचल प्रदेश, भारतीय संविधान के अनुच्छेद 174 (2) (ए) द्वारा प्रदत्त शक्तियों के अनुसरण में हिमाचल प्रदेश बारहवीं विधान सभा के पंचम सत्र का तत्काल सत्रावसान करती हूँ।

उर्मिला सिंह,
राज्यपाल,
हिमाचल प्रदेश।”

आदेश द्वारा:—

सुन्दर सिंह वर्मा,
सचिव,
हि०प्र० विधान सभा।

कार्मिक विभाग (नियुक्ति-II)

अधिसूचना

शिमला-2, 22 फरवरी, 2014

संख्या पर(एपी-बी)ए(3)-5/2013.—हिमाचल प्रदेश की राज्यपाल, भारत के संविधान के अनुच्छेद 318 के साथ पठित अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश लोक

सेवा आयोग के परामर्श से, इस विभाग की अधिसूचना पर(एपी-II)ए(3)1/88, तारीख 24-11-1995 द्वारा अधिसूचित हिमाचल प्रदेश लोक सेवा आयोग में, **अवर सचिव**, (गैर-हिमाचल प्रदेश प्रशासनिक सेवा), वर्ग-I (राजपत्रित) भर्ती और प्रोन्नति नियम, 1995 में और संशोधन करने के लिए निम्नलिखित नियम बनाती हैं, अर्थात्:-

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश लोक सेवा आयोग, अवर सचिव, (गैर-हिमाचल प्रदेश प्रशासनिक सेवा), वर्ग-I (राजपत्रित) भर्ती और प्रोन्नति संशोधन नियम, 2014 है।

(2) ये नियम राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने की तारीख से प्रवृत्त होंगे।

2. उपाबन्ध-I का संशोधन.—(1) हिमाचल प्रदेश लोक सेवा आयोग, अवर सचिव (गैर-हिमाचल प्रदेश प्रशासनिक सेवा) वर्ग-I (राजपत्रित) भर्ती और प्रोन्नति नियम, 1995, के उपाबन्ध-I में;

(क) स्तम्भ संख्या 2 के सामने विद्यमान उपबन्ध के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:-
“03 (तीन)”;

(ख) स्तम्भ संख्या 4 के सामने विद्यमान उपबन्ध के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:-
“पे बैंड 15600-39100 रुपए+6600 रुपए ग्रेड पे”;

(ग) स्तम्भ संख्या 11 के सामने विद्यमान उपबन्ध के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:-

“अनुभाग अधिकारियों में से प्रोन्नति द्वारा जिनका पाँच वर्ष का नियमित सेवाकाल हो या ग्रेड में की गई लगातार तदर्थ सेवा, यदि कोई हो, को सम्मिलित करके पांच वर्ष का नियमित सेवाकाल हो, ऐसा न होने पर अनुभाग अधिकारियों में से प्रोन्नति द्वारा जिनका अनुभाग अधिकारी और अधीक्षक ग्रेड-II का संयुक्ततः 6 (छह) वर्ष का नियमित सेवाकाल हो या ग्रेड में की गई लगातार तदर्थ सेवा, यदि कोई हो को सम्मिलित कर छह वर्ष का नियमित सेवाकाल हो जिसमें अनुभाग अधिकारी के रूप में तीन वर्ष की अनिवार्य सेवा भी सम्मिलित होगी।

उपरोक्त पैरा में किसी बात के होते हुए भी, रजिस्ट्रार/अतिरिक्त रजिस्ट्रार के पद, पहले से धारण करने वाले अधिकारियों पर जिनकी रजिस्ट्रार/अतिरिक्त रजिस्ट्रार और अनुभाग अधिकारी के रूप में छह वर्ष का सेवाकाल है, प्रोन्नति के लिए, अनुभाग अधिकारी के रूप में उनकी वरिष्ठता के क्रम में विचार किया जाएगा तथा तत्पश्चात् रजिस्ट्रार/अतिरिक्त रजिस्ट्रार/संयुक्त नियन्त्रक के पद समाप्त हो जाएंगे।

प्रोन्नति के सभी मामलों में पद पर नियमित नियुक्ति से पूर्व संभरक पोषक पद में की गई लगातार तदर्थ सेवा, यदि कोई हो, प्रोन्नति के लिए इन नियमों में यथा विहित सेवाकाल के लिए इस शर्त के अधीन रहते हुए गणना में ली जाएगी, कि सम्भरक प्रवर्ग में तदर्थ नियुक्ति/प्रोन्नति, भर्ती एवं प्रोन्नति नियमों के उपबन्धों के अनुसार चयन की उचित स्वीकार्य प्रक्रिया को अपनाने के पश्चात् की गई थी :

(i) परन्तु उन सभी मामलों में, जिनमें कोई कनिष्ठ व्यक्ति संभरक पद में अपने कुल सेवाकाल तदर्थ आधार पर की गई सेवा सहित, जो नियमित सेवा/नियुक्ति के अनुसरण में हों, के आधार पर उपर्युक्त निर्दिष्ट उपबन्धों के कारण विचार किए जाने का पात्र हो जाता है, वहां अपने-अपने प्रवर्ग/पद/काडर में उससे वरिष्ठ सभी व्यक्ति विचार किए जाने के पात्र समझे जाएंगे और विचार करते समय कनिष्ठ व्यक्ति से ऊपर रखे जाएंगे :

परन्तु यह और कि उन सभी पदधारियों की, जिन पर प्रोन्नति के लिए विचार किया जाना है, कम से कम तीन वर्ष की न्यूनतम अर्हता सेवा या पद के भर्ती और प्रोन्नति नियमों में विहित सेवा, जो भी कम हो, होगी :

परन्तु यह और भी कि, जहाँ कोई व्यक्ति पर्वगामी परन्तुक की अपेक्षाओं के कारण प्रोन्नति किए जाने संबंधी विचार के लिए अपात्र हो जाता है, वहाँ उससे कनिष्ठ व्यक्ति भी ऐसी प्रोन्नति के लिए अपात्र समझा जाएगा/समझे जाएंगे।

स्पष्टीकरण.—अंतिम परन्तुक के अन्तर्गत कनिष्ठ पदधारी प्रोन्नति के लिए अपात्र नहीं समझा जाएगा, यदि वरिष्ठ अपात्र व्यक्ति भूतपूर्व सैनिक है, जिसे डिमोविलाईज्ड आर्मड फोर्सिस पर्सनल रिजर्वेशन ऑफ वैकेन्सीज़ इन हिमाचल स्टेट नॉन-टैक्नीकल सर्विसीज़ रूल्ज़, 1972 के नियम-3 के उपबन्धों के अन्तर्गत भर्ती किया गया हो और इसके अन्तर्गत वरीयता लाभ दिए गए हों या जिसे एक्स-सर्विसमैन रिजर्वेशन ऑफ वैकेन्सीज़ इन दी हिमाचल प्रदेश टैक्नीकल सर्विसीज़ रूल्ज़, 1985 के नियम-3 के उपबन्धों के अन्तर्गत, भर्ती किया गया हो और इसके अन्तर्गत वरीयता लाभ दिए गए हों।

(2) इसी प्रकार स्थायीकरण के सभी मामलों में ऐसे पद पर नियमित नियुक्ति/प्रोन्नति से पूर्व सम्भरक पद पर की गई लगातार तदर्थ सेवा, यदि कोई हो, सेवाकाल के लिए गणना में ली जाएगी, यदि तदर्थ नियुक्ति/प्रोन्नति, उचित चयन के पश्चात् और भर्ती और प्रोन्नति नियमों के उपबन्धों के अनुसार की गई थी :

परन्तु की गई उपर्युक्त निर्दिष्ट तदर्थ सेवा को गणना में लेने के पश्चात्, जो स्थायीकरण होगा उसके फलस्वरूप पारस्परिक वरीयता अपरिवर्तित रहेगी।”

आदेश द्वारा,
पी० मित्रा०,
मुख्य सचिव।

[Authoritative English Text of this Department Notification No. Per(AP-B)A(3)5/2013 dated 22-02-2014 as required under clause (3) of Article 348 of the Constitution of India].

PERSONNEL DEPARTMENT (AP-II)

NOTIFICATION

Shimla-171002, 22nd February, 2014

No. Per(AP-B)A(3)5/2013.—In exercise of the powers conferred by proviso to Article 309 read with Article 318 of the Constitution of India, the Governor, Himachal Pradesh, in consultation with Himachal Pradesh Public Service Commission, is pleased to make the following rules further to amend the Himachal Pradesh Public Service Commission, Under Secretary, (Non-HAS) (Gezatted Class-I) Recruitment and Promotion Rules, 1995 notified *vide* this Department's notification No. Per(AP-II)A(3)1/88, Dated 24-11-1995 and published in the Rajpatra, Himachal Pradesh, Dated 30-12-1995, namely:—

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh Public Service Commission, Under Secretary, (Non-HAS) (Gezatted Class-I) Recruitment and Promotion (Amendment) Rules, 2014.

(2) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. Amendment of Annexure-I.—In Annexure-I to the Himachal Pradesh Public Service Commission, Under Secretary (Non-HAS) (Gezatted Class-I) Recruitment and Promotion Rules, 1995, :—

- (a) For the existing provision against Column No. 2, the following shall be substituted, namely:—

“03 (three)”;

- (b) For the existing provision against Column No. 4, the following shall be substituted, namely:—

“Pay band ₹ 15600-39100 + ₹ 6600 Grade Pay”; and

- (c) For the existing provision against Column No. 11, the following shall be substituted, namely:—

“By promotion from amongst Section Officers who possess (05) five years’ regular service or regular combined with continuous adhoc service, if any, in the grade failing which by promotion from amongst the Section Officers who possess 06 (six) years’ regular service or regular combined with continuous adhoc service, if any, combined as Section Officer and Superintendent Grade-II; which shall include essential service of 03 years’ as Section Officer.

Notwithstanding anything contained in para supra, the officers already holding the posts of Registrar/Additional Registrar having six years service as Registrar/Additional Registrar and Section Officer shall be considered for promotion in order of their seniority as Section Officer and thereafter the posts of Registrar/Additional Registrar/Joint Controller shall stand abolished.

In all cases of promotion, the continuous adhoc service rendered in the feeder post, if any, prior to regular appointment to the post shall be taken into account towards the length of service as prescribed in these rules for promotion subject to the condition that the adhoc appointment/promotion in the feeder category had been made after following proper acceptable process of selection in accordance with the provisions of R&P Rules:

Provided that where a junior person becomes eligible for consideration by virtue of his/her total length of service (including the service rendered on adhoc basis, followed by regular service/appointment) in the feeder post in view of the provision referred to above, all persons senior to him/her in the respective category/post/cadre shall be deemed to be eligible for consideration and placed above the junior person in the field of consideration:

Provided further that all incumbents to be considered for promotion shall possess the minimum qualifying service of at least three years’ or that prescribed in the R&P Rules for the post, whichever is less:

Provided further that where a person becomes ineligible to be considered for promotion on account of the requirements of the preceding proviso, the person(s) junior to him/her shall also be deemed to be ineligible for consideration for such promotion.

Explanation.—The last proviso shall not render the junior incumbent(s) ineligible for consideration for promotion if the senior ineligible person(s) happened to be exservicemen recruited under the provisions of Rule-3 of the Demobilized Armed Forces Personnel (Reservation of vacancies in the Himachal State Non-Technical Services) Rules, 1972 and having been given the benefit of seniority there-under or recruited under the provisions of Rule-3 of Ex-Serviceman (Reservation of vacancies in the Himachal Pradesh Technical Services) Rules, 1985 and having been given the benefit of seniority thereunder.

(2) Similarly, in all cases of confirmation, continuous adhoc service rendered on the feeder post, if any, prior to the regular appointment/promotion against such post shall be taken into account towards the length of service, if the adhoc appointment/promotion had been made after proper selection and in accordance with the provision of the R&P Rules:

Provided that inter-se-seniority as a result of confirmation after taking into account, adhoc service rendered as referred to above shall remain unchanged.”

By order,
P. MITRA,
Chief Secretary.

ब अदालत श्री लेख राम धीमान, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी, उप-तहसील धीरा,
जिला कांगड़ा, हिमाचल प्रदेश

केस नं० : 02/2013

तारीख दायर : 12-2-2014

तारीख पेशी : 10-3-2014

शीर्षक :

श्री संजीव कुमार पुत्र श्री मिलाप चन्द, निवासी गांव औच, डा० गगल, उप-तहसील धीरा, जिला कांगड़ा, हिमाचल प्रदेश . . प्रार्थी।

बनाम

प्रधान ग्राम पंचायत गगल, उप-तहसील धीरा, जिला कांगड़ा

प्रार्थना-पत्र अधीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी ने इस न्यायालय में प्रार्थना-पत्र मय शपथ-पत्र पेश किया है कि उसका जन्म गांव औच, डा० गगल, उप-तहसील धीरा, जिला कांगड़ा, हिमाचल प्रदेश में दिनांक 21-12-1989 को हुआ है मगर अज्ञानतावश ग्राम पंचायत गगल के अभिलेख में दर्ज न है।

अतः इशतहार राजपत्र द्वारा सर्वसाधारण को सूचित किया जाता है कि यदि किसी को इस बारे कोई उजर या एतराज हो तो वह दिनांक 10-3-2014 को प्रातः 10.00 बजे असालतन या वकालतन अदालत में हाजिर आकर पेश कर सकता है। इसके बाद कोई उजर या एतराज नहीं सुना जाएगा तथा संजीव कुमार पुत्र

श्री मिलाप चन्द, निवासी गांव औच, डा0 गगल, उप-तहसील धीरा, जिला कांगड़ा, हिमाचल प्रदेश के जन्म पंजीकरण के आदेश सम्बन्धित ग्राम पंचायत गगल को पारित कर दिए जाएंगे।

मोहर।

लेख राम धीमान,
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
उप-तहसील धीरा, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री डी0 सी0 ठाकुर, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0 प्र0)

श्री जरनैल सिंह पुत्र श्री विरसा सिंह, निवासी गांव व डा0 भिरड़ी, तहसील बैजनाथ, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री जरनैल सिंह पुत्र श्री विरसा सिंह, निवासी गांव व डा0 भिरड़ी, तहसील बैजनाथ, जिला कांगड़ा, हिमाचल प्रदेश ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसके पुत्र हरमन का जन्म दिनांक 3-8-2009 को महाल भिरड़ी में हुआ था परन्तु इस बारे पंचायत के रिकॉर्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिए जाएं।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर/एतराज हो तो वह दिनांक 20-3-2014 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म का पंजीकरण करने के आदेश दे दिए जाएंगे। उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 10-2-2014 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

डी0 सी0 ठाकुर,
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री डी0 सी0 ठाकुर, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0 प्र0)

श्री कल्याण चन्द पुत्र श्री निकू राम, निवासी गांव व डा0 ढण्डोल, तहसील बैजनाथ, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री कल्याण चन्द पुत्र श्री निकू राम, निवासी गांव व डा0 ढण्डोल, तहसील बैजनाथ, जिला कांगड़ा, हिमाचल प्रदेश ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसके भतीजे पंकज कुमार सुपुत्र श्री संजय

कुमार का जन्म दिनांक 7-2-2004 को महाल ढण्डोल में हुआ था परन्तु इस बारे पंचायत के रिकॉर्ड में पंजीकरण नहीं करवाया जा सका। अब पंजीकरण करने के आदेश दिए जाएं।

अतः इस नोटिस के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उपरोक्त पंजीकरण के बारे में कोई उजर एतराज हो तो वह दिनांक 20-3-2014 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा उपरोक्त जन्म का पंजीकरण करने के आदेश दे दिए जाएंगे। उसके उपरान्त कोई एतराज न सुना जाएगा।

आज दिनांक 10-2-2014 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

डी० सी० ठाकुर,
कार्यकारी दण्डाधिकारी,
बैजनाथ, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, हारचकियां, जिला कांगड़ा, हिमाचल प्रदेश

श्री अमर नाथ पुत्र श्री प्रभु, निवासी महाल गुजरेड़ा, मौजा मनेई, तहसील हारचकियां, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

विषय.—प्रार्थना-पत्र सेहत नाम।

श्री अमर नाथ पुत्र श्री प्रभु, निवासी महाल गुजरेड़ा, मौजा मनेई, तहसील हारचकियां ने इस अदालत में प्रार्थना-पत्र मय ब्यान हल्फी गुजारा है कि राजस्व अभिलेख पटवार वृत्त मनेई में उसका नाम घनश्याम दर्ज है जो कि सही नहीं है। सही नाम अमरनाथ पुत्र श्री प्रभु है।

अतः इस इशतहार राजपत्र के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी को कोई उजर या एतराज हो तो वह दिनांक 20-4-2014 को प्रातः 10.00 बजे पेश कर सकता है। बाद पेशी कोई उजर व एतराज नहीं सुना जाएगा तथा राजस्व अभिलेख में त्रिलोक सिंह उर्फ त्रिलोक चन्द के नाम की दुरुस्ती के आदेश दे दिए जाएंगे।

आज दिनांक 11-4-2014 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता द्वितीय श्रेणी,
हारचकियां, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत कार्यकारी दण्डाधिकारी, हारचकियां, जिला कांगड़ा, हिमाचल प्रदेश

श्री यशपाल सिंह पुत्र श्री भूरि सिंह, निवासी गुव्वर, मौजा प्रगौड़, तहसील हारचकियां, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

विषय.—प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी श्री यशपाल सिंह ने अधोहस्ताक्षरी की अदालत में प्रार्थना—पत्र मय ब्यान हल्की इस आशय से गुजारा है कि उसके लड़के राहुल भारद्वाज पुत्र श्री यशपाल सिंह की जन्म तिथि 26-2-2001 है। जो कि ग्राम पंचायत प्रगौड़ के रजिस्टर में दर्ज न है। जिसे दर्ज किया जावे।

इस सम्बन्ध में सर्वसाधारण को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी के पुत्र राहुल भारद्वाज की जन्म तिथि ग्राम पंचायत प्रगौड़ के रिकॉर्ड में दर्ज करने पर यदि किसी को कोई आपत्ति या एतराज हो तो वह दिनांक 20-3-2014 को असालतन या वकालतन अदालत अधोहस्ताक्षरी आकर अपना एतराज दर्ज करवा सकता है। कोई एतराज दर्ज न होने की सूरत में एकतरफा कार्यवाही अमल में लाई जा करके नाम व जन्म तिथि दर्ज करने के आदेश दे दिए जाएंगे।

आज दिनांक 10-2-2014 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित / —
कार्यकारी दण्डाधिकारी,
हारचकियां, जिला कांगड़ा, हिमाचल प्रदेश।

In the Court of Shri Shivdev Singh, Executive Magistrate, Tehsil Dharamshala, District Kangra, Himachal Pradesh

1. Shri Vishal Rai s/o Shri Ashok Rai, r/o Ram Nagar , Tehsil Dharamshala, District Kangra.
2. Smt. Sumam Sharma d/o Shri Vijay Shekhar, r/o Nal, Tehsil and District Bilaspur.

Versus

1. General Public, 2. The Registrar of Marriages.

PUBLIC NOTICE :

Whereas the above named applicants have made an application under section 8 (4) of the Himachal Pradesh Registration of Marriages Act, 1996 alongwith an affidavit stating therein that they have solemnized their marriage on 29-10-2012 at Ram Nagar but has not been found entered in the records of the Registrar of Marriages *i. e.* Secretary, G. P./M. C. Dharamshala.

And whereas, they have also stated that they were not aware of the laws for the registration of marriage with the Registrar of Marriages and now, therefore, necessary orders for the registration of their marriage be passed so that their marriage may be registered by the concerned authority.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding the registration of the marriage of the above named applicants, they should appear before the court of undersigned on 7-3-2014 at Tehsil Office Dharamshala at 10.00 A. M. either personally or through their authorized agent.

In the event of their failure to do so, orders shall be passed *ex parte* for the registration of marriage without affording any further opportunity of being heard.

Issued under my hand and seal of the Court on 6-2-2014.

Seal.

SHIVDEV SINGH,
Executive Magistrate,
Tehsil Dharamshala, District Kangra, Himachal Pradesh.

ब अदालत श्री शिवदेव सिंह, तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील धर्मशाला,
जिला कांगड़ा, हिमाचल प्रदेश

श्री पुर्ण चन्द

बनाम

आम जनता व अन्य

विषय.—प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम आम जनता।

श्री पुर्ण चन्द पुत्र श्री इन्द्र सिंह, निवासी कालापुल (कजलोट), तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ—पत्र सहित मुकद्दमा दायर किया है कि उसकी पुत्री नीतू की जन्म तिथि 27—9—1989 है परन्तु ग्राम पंचायत कजलोट में जन्म पंजीकृत न है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त बच्चे नीतू की जन्म तिथि पंजीकरण किये जाने बारे कोई एतराज हो तो वह अपना एतराज हमारी अदालत में दिनांक 7—3—2014 को असालतन या वकालतन हाजिर आकर पेश कर सकता है अन्यथा मुताबिक शपथ—पत्र जन्म तिथि पंजीकृत किये जाने बारे आदेश पारित कर दिये जाएंगे।

आज दिनांक 11—2—2014 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

शिवदेव सिंह,
तहसीलदार एवं कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश।

OFFICE OF THE DEPUTY COMMISSIONER, KANGRA AT DHARAMSHALA

NOTICE

Dated 13-2-2014

Shri Gurnam Singh, Advocate s/o Late Shri Bhag Singh, r/o Vill. and P. O. Nagrota Surian, Tehsil and District Kangra has applied for the post of Notary Public at Sub-Division kangra. Before recommending the case of the applicant to the Govt. of H. P. for the appointment as Notary Public,

the objections of General Public if any are invited through this notice. If any person has objection for appointment of the applicant, he may send the objections in writing to this office on or before 15-3-2014.

Sd/-
*Additional District Magistrate,
Kangra at Dharamshala.*